

REMARKS

The claims in this case were restricted into three Groups. Applicants have provisionally elected Group II, Claims 3, 4, 10-12, 18 and 19. The Restriction Requirement is traversed.

The Office has characterized the three Groups as being unrelated because they have different effects because they contain different compounds. This Restriction Requirement is improper for at least the following reasons.

First, the Office has failed to provide any reason or explanation as to why the proposed Groups would have “different effects,” as required by the MPEP for proper restriction. It merely provides the unsupported conclusion. For this reason alone the Restriction Requirement is improper.

Second, for restriction to be proper, a burden must be placed on the Office in examining all claims. Applicants respectfully submit that even assuming the compositions in the three Groups are materially different, the search for compositions in all three Groups would occur in the same classes/subclasses. This is highlighted by the fact that the Restriction Requirement identifies the classification of Group III as class 528, subclass 25+. Group II, which is classified as being class 528, subclass 31, as well as Group I (class 528, subclass 28) fall within Group III’s classification of class 528, subclass 25+. Thus, no burden would be placed on the Office in searching and/or examining all claims together. Accordingly, the Restriction Requirement is traversed.

Application No. 10/622,689
Reply to Office Action of September 13, 2004

Applicants respectfully submit that the above-identified application is now in
condition for examination on the merits.

Respectfully submitted,

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